

# First Principles.

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**Also In This Issue:** *Foreign Spies and Crime,*  
By Morton H. Halperin, p. 16

*In the News, the Courts*  
the Literature, p. 12

**Coming:** DEC. The Free-  
dom of Information  
Act

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## Fred Hampton: A Case of Political Assassination

BY SUSAN CANTOR

What to the American slave is your Fourth of July? I answer, a day that reveals to him, more than all other days of the year, the gross injustice and cruelty to which he is the constant victim. To him your celebration is a sham; your boasted liberty an unholy license; your national greatness, swelling vanity; your sounds of rejoicing are empty and heartless, your denunciation of tyrants, brass-fronted impudence; your shouts of liberty and equality, hollow mockery; your prayers and hymns, your sermons and thanksgivings, with all your religious parade and solemnity, are to him mere bombast, fraud, deception, impiety, and hypocrisy — a thin veil to cover up crimes which would disgrace a nation of savages . . . .  
Frederick Douglass, 1857

At 5 AM on December 4, 1969, fourteen hand-picked police armed with heavy weapons burst into an apartment at 2337 Monroe Street on Chicago's West Side. In the ensuing nine-minute hail of police bullets, Fred Hampton, Chairman of the Illinois Branch of the Black Panther Party, and Mark Clark, also of the BPP, were killed; five other people in the apartment were wounded.

Fred Hampton was one of many black political leaders who died violently in the sixties and early seventies. There was an immediate suspicion that Hampton had been murdered by the Illinois police, and there was uncontroverted evidence that the police had lied about the details of their own involvement. However, it was only seven

years later, when the proceedings in a civil damage suit forced the FBI to produce its extensive files, that it became clear that Hampton's death resulted from an FBI campaign against the Panthers. These documents strongly suggest that Hampton was in fact murdered by the Illinois police acting at the direction of the Federal Bureau of Investigation.

The civil damage suit which was brought by the Hampton and Clark families and the survivors of the raid was filed against 28 state, local, and federal officials for \$47.5 million in damages; it alleges that there was a conspiracy to deprive the occupants of the apartment of their civil rights, that the seven survivors were maliciously and false-

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*It is at all times necessary, and more particularly so during the progress of a revolution and until right ideas confirm themselves by habit, that we frequently refresh our patriotism by reference to first principles.*

THOMAS PAINE

ly prosecuted, and, finally, that there was a conspiracy to hide the true facts surrounding the raid.

The thousands of pages of FBI memos now released reveal that there was a constricting net which led up to Hampton's death and which then covered up its own traces. There was a COINTELPRO operation directed against the Panthers, and there had been a particular interest in Fred Hampton over a period of time. FBI agent Piper of the Chicago office of the Bureau supervised a Black Panther Task Force; Piper's immediate underling, Roy Martin Mitchell, ran an informer who reported constantly on the Panther's and Hampton's activities. William O'Neil, the FBI informant, supplied the information which was used as the pretext for the fatal raid and also provided a complete floor plan of the apartment and the exact location where Fred Hampton slept. Mitchell passed all this information to both the Chicago police and to the State Attorney's office and sold the idea for the raid. The FBI willingly covered up its entire role in the raid and remained quite while the Illinois police distorted the facts to the public. Marlin Johnson, the SAC in Chicago, gathered evidence for the Federal Grand Jury on Hampton's death without ever mentioning the FBI's involvement.

If Hampton's death was part of the larger COINTELPRO operations directed against the Black Panther Party, we are forced to consider the possibility that, while the CIA was plotting assassinations abroad, the FBI was doing the same at home — that the Black movement challenged the "national interest" (as defined by the FBI) just as the government of Salvador Allende did. If this is in fact what happened, then Hampton's death cannot be forgotten as an isolated "incident," as being just another Panther killed in a "shoot out." It becomes a matter which requires a new official investigation by the House Committee on Assassinations and the Senate Intelligence Committee. The new investigation can begin with these new documents from the Hampton civil suit, and it must not rely on FBI goodwill for information about its involvement.<sup>1</sup>

## The Black Movement and COINTELPRO

*"Human rights! Respect as human beings! That's what America's black masses want. . . . The black masses want not to be shrunk from as though they are plague-ridden. They want not to be walled up in slums, in the ghettos, like animals. They want to live in an open, free society where they can walk with their heads up, like men, and women. . . . Every morning when I wake up, now, I regard it as having another borrowed day."*

—Malcolm X

The black movement challenged the very basis of American society. The South was being torn apart — the legal underpinnings for racism were at last being confronted. It began with the end of the "separate-but-equal" schools, and soon reached to every part of society, from the voting booths to the buses, from the water fountains to Woolworth's lunch counters.

Malcolm X was organizing in the North, Martin Luther King became an international figure, SNCC was active in the South. Leaders like Rap Brown, Fred Hampton, and many more were emerging from the urban ghettos of Detroit, New York, Chicago, and Oakland; they were the second generation that had moved from the South to look for jobs in the North during the "war boom." But for black people, the jobs weren't always there; they were met instead by the rat filled urban slums.

Tension stretched like a rubber band across the country, ready to snap. People were no longer asking for their rights, they were demanding them — and fighting for the power to enforce them. But history repeats itself in many ways, and just as a reign of terror had been unleashed in the South after Reconstruction, another period of repression was unleashed against the growing black movement in the sixties.

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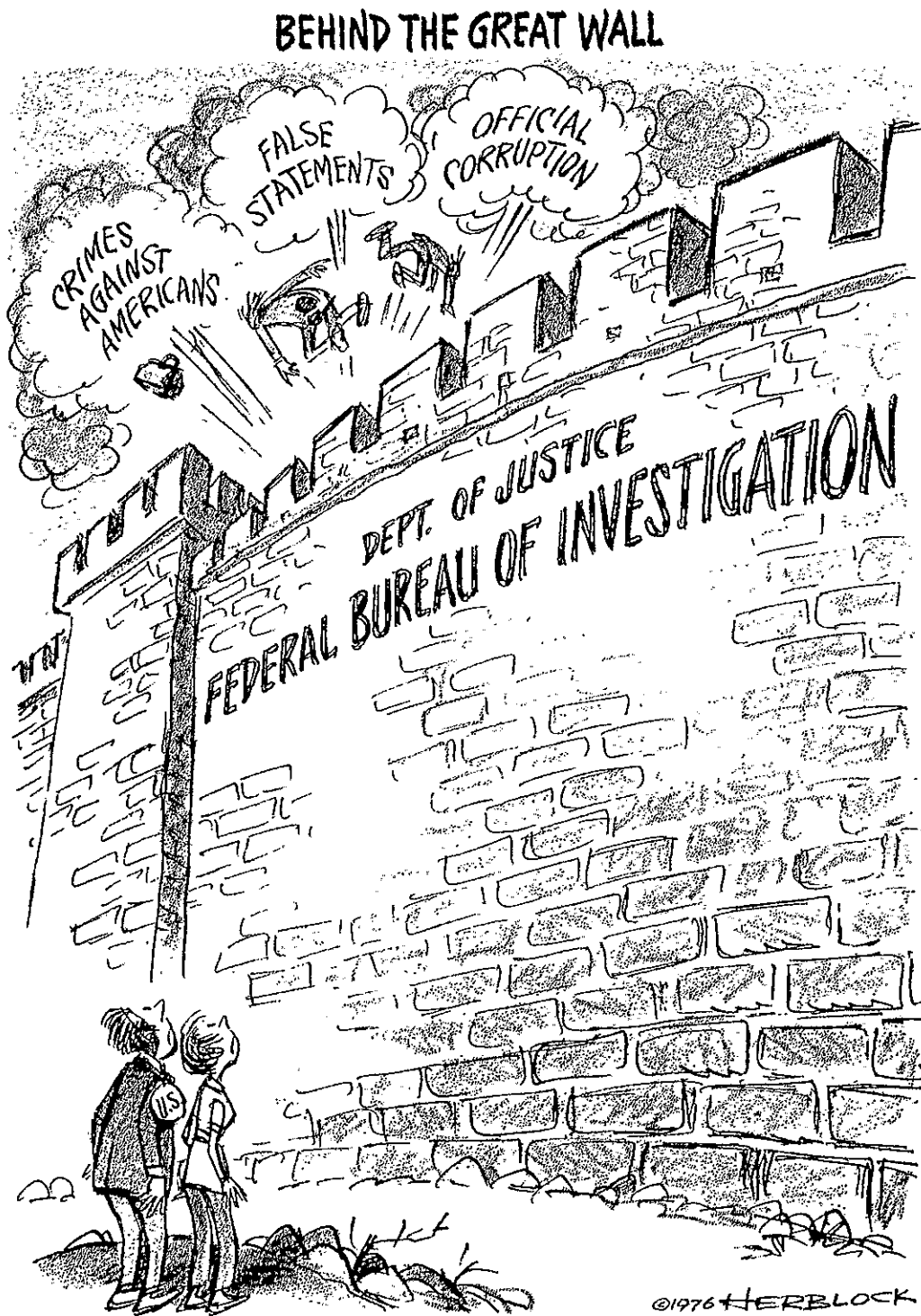
*"Prevent the rise of a "messiah" who could unify and electrify the militant black nationalist movement. Malcolm X might have been such a messiah; he is the martyr of the movement today."—FBI Memo 3/4/68*

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Malcolm X was by 1964 a national figure of increasing stature within the black community. Soon after he split with Elijah Muhamed, formed the Organization of Afro-American Unity, and went on a tour of Africa, he was assassinated in the Audubon Ballroom in Harlem. His body guard at that time was a man named Gene Roberts; Roberts later surfaced as a police informer in a Panther trial in New York. Several weeks later, Leon Ameer, Malcolm's second in command in the OAAU was murdered and shortly thereafter, the organization split up.

During the next years, however, the black movement continued to grow. As the civil rights movement peaked, Stokely Carmichael named the changing mood with the phrase "Black Power". It was 1966. The Student Non-Violent Coordinating Committee was growing. In California the Black Panther Party for Self Defense was being born. During the spring and summer of 1967 black rebellions swept the country — reverberations of Malcolm X's "chicken's coming home to roost" and Martin Luther King's speech, "Why We Can't Wait."

"The purpose of this new counterintelligence endeavor is to expose, disrupt, misdirect, discredit, or other-



wise neutralize the activities of black nationalist, hate-type organizations and groupings, their leadership, spokesmen, membership, and supporters, and to counter their propensity for violence and civil disorder." With this FBI memo, dated August 25, 1967, the COINTELPRO activities against the black movement formally began.

By 1968, the Black Movement had not only grown tremendously within the Black Community but was also beginning to reach other sectors of the society. Martin Luther King played a crucial role in broadening the movement. This trend was further increased when he began to link the struggle of blacks in this country with the anti-war movement.

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"Prevent militant black nationalist groups and their leaders from gaining respectability, by discrediting them to three separate segments of the community . . . You must discredit these groups and individuals to: first, the responsible Negro community, second, they must be discredited to the white community, both responsible community and to the liberals who have vestiges of sympathy for militant black nationalists simply because they are Negroes. Third, these groups must be discredited in the eyes of Negro radicals, the followers of the movement. . . ."—FBI memo 3/4/68.

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Martin Luther King was not only respectable but also becoming more militant. And he became the object of one of the most ferocious programs in FBI history — total character assassination. He was watched, wiretapped, slandered, and informed on. William Sullivan testified that in the program against Martin Luther King, "No holds were barred. We have used [similar] techniques against Soviet agents. [The same methods were] brought home against any organization against which we were targeted. We did not differentiate. This is a rough tough business."

In April of 1968 Martin Luther King was killed.

The war was coming home, but the escalation was yet to begin.

In September of 1968, the Black Panther Party became the most important target of FBI COINTELPRO activities against the Black Movement. A FBI memo dated 9/30/68 from HQ to San Francisco stated, "In view of the continued increase of violent activities on the part of the Black Panther Party (BPP) it is mandatory that the counterintelligence program against this party be accelerated."

The FBI understood, of course, that it was necessary to lay a cover of appropriate rhetoric over its COINTELPRO operations:

"Prevent violence on the part of the black nationalist groups. This is of primary importance, and is, of course, a goal of our investigative activity; it should also be a goal of the Counterintelligence Program. Through counterintelligence it should be possible to pinpoint potential troublemakers and neutralize them before they exercise their potential for violence."

Seven years later, the irony of using such rhetoric is not lost on us. While the FBI spoke of preventing violence, its actual policy was to create it. The majority of violent activities which occurred between the Panthers and the police were police-provoked, and the record shows that the FBI incited violence between the Panthers and other groups on at least several occasions. In order to "neutralize" potential leaders, the FBI was ready to use violent tactics against black Americans.

In spite of the repeated fear found in FBI memos of Panther "violence," their real fear of the Panthers stemmed from their non-violent activities — in what they said and did within the black community. Two of the main concerns of the Bureau were the Free Breakfast Program and the Liberation Schools. These programs were viewed as the real "long range threat to American society."<sup>2</sup>

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"A final goal should be to prevent the long range growth of militant black nationalist organizations, especially among youth. Specific tactics to prevent these groups from converting young people must be developed." FBI Memo, March 1968

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The history of the program against the BPP is different from the history of COINTELPRO operations directed against the New Left, the Socialist Workers Party, or the Communist Party. It is not a history primarily limited to illegal but comparatively passive mail openings, burglaries, or surveillance, or even of phony letters and hassling visits. The record shows that tactics which were used against black targets were not used against white targets in otherwise comparable situations.

According to FBI documents released to the Senate Intelligence Committee, over 223 activities were carried out against the Panthers between July of 1969 and April of

1971.<sup>3</sup> These activities covered a full range — “black propaganda,” police-provoked shoot-outs, massive infiltration by informers, harassment, innumerable false arrests, attempts to instigate gang wars between the Panthers and other black groups, and cold-blooded assassinations.

In just a few years over 30 Panthers were dead, countless wounded, tens in jails, several in exile. The entire leadership had been decimated and the national structure had been fragmented. Black leaders had been killed — Fred Hampton, Ralph Featherstone, George Jackson, Jonathan Jackson, Malcolm X, and Martin Luther King, to name just a few. As it happened, it was headlines, part of the convulsions of the country during the war in Vietnam, the rule of the President’s Men, the Cambodia invasion. Seemingly, it had no contours of its own. It was part of the texture of a society being torn apart and the pattern was not yet visible.

Today that pattern has taken shape. It is visible in the documents, in the survivors, and in the Congressional investigations. It is visible in the slums of New York and Chicago; it is visible in all that has not changed.

## Targeting Hampton and the Chicago BPP

Today Chicago is quiet on the surface. The Loop bustles with shoppers and office workers, but it is an outpost. To the south and to the west exist another world — Chicago’s black ghetto is probably one of the most wretched in the country. Just a five minute drive from the luxury apartments bordering Lake Michigan are the Cabrini Towers, a public housing project. It is a cement slab, punctuated by iron fencing. It is run down, but somehow it conveys the sense that it looked no better when it first went up.

An air of resignation hangs heavily over the decaying housing, the garbage-filled streets, and the people without work who languish on the doorsteps. The mood of the few people hanging around Cabrini towers today is the measure of the mood of the ghetto. Today there are no break-fast programs, no health clinics; the energy of the sixties has been at least temporarily stifled.

Once filled with busy people, the old Panther office in Cabrini Towers is now boarded up. Workmen are renovating 2337 Monroe Street, filling bullet-riddled walls with plaster. It is the aftermath, and people are afraid. In the

summer of 1976, a few days after some members of the BPP arrived in Chicago to organize against housing conditions, the office was burned. There is no space in Mayor Daley’s Chicago now.

But 1968 was very different. The Black Panthers were opening offices around the country. The news media reported their every move. Students around the country were demonstrating against the war and in support of the Panthers. Leaflets filled the streets. Energy abounded.

In October of 1968, the FBI Headquarters sent out a series of memos with detailed instructions on how to deal with the BPP. Offices having a BPP branch in their area had to file reports every 2 weeks, and they had to file recommendations regularly on what activities they were planning against the Party and any further suggestions which they had for national activities.

Efforts were to be concentrated in a number of areas. As much information as possible was to be collected on the national and local leadership. Informers were to be infiltrated into all Party branches — not only to report on activities, but, as we shall see, to function as *agents provocateur*. The national distribution of the BPP newspaper was to be disrupted in any feasible manner. Information was to be given to journalists to distort the BPP’s activities and to try and isolate them. Finally, wiretapping of the BPP began in earnest. That same month the Chicago office of the FBI received an Airtel instructing it to begin an immediate investigation into the BPP in their area.

Under the heading COINTELPRO, FBI headquarters sent out a memo the following month pointing out the advantages of fomenting hostility between the Panthers and other groups. The example they used was the situation in San Diego where rivalry (fueled by the FBI’s anonymous letter writing campaign) between the Panthers and another black organization called US had already left 3 people dead. The memo ended stating that “recipient offices are instructed to submit imaginative and hard-hitting counterintelligence measures aimed at crippling the BPP.”

The Chicago office, under the direction of Marlin Johnson, responded energetically. Soon after receipt of the memo, they began sending letters to the leadership of a Chicago street gang called the Blackstone Rangers, telling them that the Panthers wanted to take away their territory. By December of 1968 this activity had escalated. The Chicago office reported in a memo to Headquarters that Jeffery Fort, the head of the Rangers, had said that he would “take care of” anyone saying bad things about him. Chicago recommended that the Bureau write Fort an anonymous letter saying that several Panthers were spreading

rumors about him. By January, 1970, the FBI's tactics became more straightforward. The Chicago office suggested sending Fort a letter telling him that there was a "hit" out for him from the Panthers. This effort the FBI hoped, would occasion Fort to take retaliatory action which would disrupt the BPP or lead to reprisals against its leadership." Fred Hampton was then the head of the Chicago office of the Panthers. The memorandum explained why a similar letter was not being sent to the Panthers:

"Consideration has been given to a similar letter to the BPP, alleging a Ranger plot against the BPP leadership; however, it is not felt this would be productive, principally since the BPP at present is not believed as violence-prone as the Rangers, to whom violent type activity, shooting, and the like, are second nature."

The Bureau's own internal memos make it clear that, whatever their public rhetoric, their goal was to promote rather than prevent violence.

The FBI used its standard tactics against the Black Panther Party. It strove to prevent alliances between the Panthers and other groups, it attempted to isolate the Panthers from other sectors of the black community, and it fostered internal divisions and factionalism. But one of the cornerstones of the program carried out against the Party was to destroy its leadership — to "prevent the rise of a black messiah". Those people who could not be coopted, bought, or corrupted had to be destroyed by other, more direct means. Fred Hampton was one of those people.

Fred Hampton had grown up in Maywood, Illinois, a suburb of Chicago. By the time he finished high school he was already politically active, leading a movement for better school conditions for black youths in Maywood. By 1966 he was on the Rabble Rouser Index, because he was the President of the Youth Council of the NAACP in his hometown. He was well known in the community, and highly respected; Maywood's mayor was one of the first people to call for an investigation into his death.

Hampton was only 18 when he became head of the Illinois chapter of the Panthers. He was an extraordinary leader — a brilliant and charismatic speaker, with an exceptional ability to deal with people and inspire confidence. His energy led the Chicago chapter of the Panthers to be one of the most effective. Five different breakfast programs were begun on Chicago's West Side, and a free medical center was begun in a neighborhood which had an infant mortality rate more than twice that of white Chicago. Under his direction the Party also began a door-to-door program of health care which included testing for sickle cell anemia and blood drives for Cook County Hospital, which served much of the black community. During

the winter, the Party organized an emergency heat program which kept pressure on the landlords to repair furnaces and boilers. The community was beginning to deal with its problems and an atmosphere of optimism and commitment was growing.

Hampton was relentless. he could be found bustling around the Panther headquarters, out in the streets talking and organizing people, or at one of an increasing number of speaking engagements throughout the Midwest. By the summer of 1969, he was talking to thousands of people in the course of a month. He was becoming a national figure both inside and outside the party, and it was being suggested that he be brought into the national BPP leadership.

On March 4, 1968 the Chicago office of the FBI received a memo advising them to keep close track of those black leaders on the "Rabble Rouser Index" who might be future targets of the COINTELPRO. On March 7, 1968 an Airtel was sent back to Headquarters from Chicago stating that Fred Hampton was "in the RRI. Sources assigned. Liaison being maintained with Maywood Police Dept."

The FBI assigned an informer to Hampton. The Chicago office sent many memos to HQ on him, and his travel was closely watched. By September, HQ was pressing for intensified investigations into the leadership of the Party, and by this time, Hampton was being listed on FBI memos as one of the BPP's leadership.

In response, the Bureau introduced a new informer into the Panther leadership — William O'Neil, who had joined the Panthers in late 1968 after being asked to do so by FBI Special Agent Roy Martin Mitchell. Besides his role as informer, O'Neil was also the classic agent provocateur. He at one point devised an outrageous plan to blow up city hall, but was soon told to forget it by the Panther leadership. His most infamous invention, which was almost immediately dismantled, was a homemade electric chair which he, ironically enough, planned to use to interrogate possible infiltrators into the Party.

During the period from 1969-70, O'Neil received over \$17,000 from the FBI. In return he provided the FBI with almost daily information concerning the activities and, in particular, the leadership of the Party. He became Chief of Security for the BPP, and, in February of 1969, O'Neil became Hampton's personal body guard. That same month, Mitchell wrote a memo asking the Bureau to raise O'Neil's pay from \$300 to \$600 a month. And O'Neil was not alone; he was only one of several informers which the FBI had planted in the BPP.

O'Neil's role became more prominent as the FBI became more and more aggressive in its activities against the BPP. In June of 1969 O'Neil's reports were used as an excuse for a raid on the Panther office in Chicago. Under the pretext of looking for a fugitive, the police surrounded

the office, almost causing a shoot out. The fugitive — who later turned out to be an FBI informer — was not found, but several Panthers were arrested and the office ransacked.

The summer of 1969 was a time of intense activity. The FBI sent out a memorandum marked TOP PRIORITY calling for increased coverage of the Panthers and requesting more information on the membership, leadership, and chapters. In July, another memo went out which discussed the current weaknesses of the Panther Party — particularly in the leadership. Regional offices were again encouraged to think about how they could exploit these.

The weaknesses described by the FBI were real. By the fall of 1969 Bobby Seale of the National leadership was being bound and gagged in a courtroom in Chicago; Huey Newton, the Minister of Defense was in jail; Eldridge Cleaver, Minister of Information was facing charges in California; and the entire leadership of the Party had been arrested in New York, on, among other charges, conspiracy to bomb the Botanical Gardens (all were later acquitted). Hampton, himself, was facing charges arising out of a demonstration earlier in the year. But he was one of the few leaders left.

### **"Planning a Positive Course of Action"**

On September 2, 1969, the Chicago office of the FBI wrote that "Chicago continues to regard the local BPP as the focal point for counterintelligence." The targeting of Hampton increased — the phone at the Panther office continued to be tapped, O'Neill and another informer were giving the FBI detailed information on all his movements, and permission had been granted secretly to record all his speeches.

Hampton had become increasingly important not only because of his position within the Black Panthers but also because of his relations with other groups. During the fall he announced a truce between the Panthers and the Blackstone Rangers, with the two groups agreeing to work together. Hampton was also the key to the Panthers' relations with the Students for a Democratic Society (SDS) in Chicago. This particular alliance became the object of a special COINTELPRO operation.

Several key events seem to have brought the situation to its final conclusion.

In mid-November, FBI agent Mitchell and informer William O'Neil met. O'Neil told Mitchell that Hampton had just returned from a meeting in California with the national leadership and that he would become BPP Chief of Staff if Hilliard went to jail. O'Neil also informed

Mitchell that Hampton's court date was coming up and that Hampton seemed to be implying that he would not go to jail again and that the Party would have to survive without his being around on a daily basis. This was an indication that Hampton might go underground. O'Neil also reported that there might be a drastic purge in the Panther party in Chicago, expelling all members but Hampton and Rush. Any one of these factors might have given the Bureau a sense of urgency in moving against Hampton. And the recent killing of two police officers by black people may have led the FBI to believe that it could now get the police to do what it had failed to get the Rangers to do.

Mitchell apparently also asked O'Neil to get him the floor plan for the apartment where Fred was living because when the two met again on November 19, Mitchell sketched out a diagram from O'Neil's description of the apartment — including a detail labeled "Fred's bed."

O'Neil also told Mitchell that there were weapons in the house, but according to all FBI documents he said that the weapons had been legally purchased. O'Neil's deposition, taken years later, noted that there was nothing unusual about the fact that there were guns in the house. An internal bureau memoranda indicates how unexceptional this information was:

"No (word deleted) matter is being opened in the Chicago office concerning this matter in as much as information indicates the weapons were apparently legally purchased under the terms of existing Firearms laws, possession of some is apparently rampant throughout BPP members and apartment rent is paid with BPP funds."

Mitchell had known that the Panthers had guns, but had never asked very much about it. However, on this occasion Mitchell was particularly interested. He asked exactly what guns were in the house and also when Fred Hampton was usually there. O'Neil provided a list of weapons, and confirmed that Hampton both worked and lived in the apartment.

Armed with the information about the weapons, the floor plan and the fact that Hampton lived there, Mitchell began to peddle the raid. According to his own testimony he met on the night of the 19th with people from the Gang Intelligence Division of the Chicago Police Department and they talked about the possibility of a raid. In a Nov. 21st memo from Mitchell to Marlin Johnson, the head of the Chicago FBI office, Mitchell communicated the floor plan of 2337 Monroe Street and informed Johnson that he had already given this information to both the Chicago Police Department

and to the State Attorney's office.

A raid was planned by the GID for the 25th of November, but was called off. Based on information which Mitchell had received from O'Neil that the Panthers were expecting a raid, both Mitchell and Johnson called to warn the GID that the raid should not be carried out. It appears, however, that the Chicago police were not anxious to carry out the raid anyway, and Mitchell began to increase pressure on the State Attorney's office.

Between November 25th and December 3, Mitchell met five to eight times with Jalovek and Groth of the State Attorney's office. Both men were members of the Special Prosecutions Unit of the SA, run at the time by Hanrahan. Jalovek had been appointed head of the SPU upon its creation and Groth was the Sergeant in charge. While the SPU was announced as the SA's answer to gangs, it appears that it had a somewhat different focus. Groth has testified that he had never worked on a case which did not focus on black people, that he maintained thorough files on the BPP, and that he was in contact with Mitchell on the BPP. Groth has also stated he had his own informants in the BPP.

Mitchell, Jalovek and Groth discussed the same information, which Mitchell had previously discussed with the Chicago P.D.: the floor plan to Hampton's apartment, when Hampton was there, and the weapons.

The FBI provided the State Attorney's office with the excuse for the raid, the layout of the apartment including the position of Fred Hampton's bed, and the fact that Hampton slept there every night. They were doing everything but carrying it out themselves. In fact, if, as the search warrant states, there were illegal weapons in the apartment, it would have been under the jurisdiction of the FBI to have carried out the raid. The fact that, until after the raid, the only weapons mentioned in FBI documents were legal ones attests to the fact that the FBI used the guns only as an excuse.

By the third of December, the Chicago office of the FBI was able to advise Washington that the local authorities were "currently planning a positive course of action relative to this information." In other words, when the Blackstone Rangers failed to take the bait, the FBI enlisted the State Attorney's office to carry out the job for them.

## The Raid

On the morning of December third, Groth drove to work past 2337 Monroe Street in order to check out the surrounding area. Upon arriving at his office Groth went in to see Jalovek and discuss the situation. Later in the day they would draw up the search warrant and meet with

Hanrahan to discuss it.

At the same time O'Neil met with Mitchell and then wandered back over to the Panther office and finally over to 2337 Monroe to eat dinner with Fred Hampton, Deborah Johnson, and several others who were then in the apartment. Meanwhile, Groth was recruiting the 14-man squad of Illinois State Police which was to carry out the raid.

By 3 AM, Groth was briefing the raiders. The floor plan which the FBI's Mitchell had provided was on the board, and the search warrant which was based on FBI informer O'Neil's information was on hand. The men were armed with machine guns and other heavy weapons, they had been hand-picked, and they were being psychologically prepared for a combat mission. Finally, Groth told them to be careful: "The entire raid could be a trap."

At 2337 Monroe Street, 9 people were asleep in the four room apartment when suddenly the doors opened and a hail of bullets tore through the walls, the beds, and the occupants. After 9 minutes the screams had stopped, the volleys had ended, and silence had once again descended on the apartment where minutes before the police had been screaming, "We got 'em, we got 'em."

Fred Hampton lay dead on a blood soaked bed. He had barely moved from where he had lain asleep. According to later testimony by both an FBI informant and the occupants of the apartment, it is probable that he had been drugged. Deborah Johnson stated he had fallen asleep while talking on the phone earlier in the evening. Maria Fischel says that the FBI asked her to drug Hampton before the raid so that he wouldn't resist.<sup>4</sup> He did not resist; he never work up.

Mark Clark, 17 years old, was dead also. He had been seated in the living room on a chair. He now lay on the floor. Five more people were wounded. Four others escaped without injury.

Ninety bullets had been shot into the apartment in a period of less than ten minutes. According to the federal grand jury report, only one of those shots had been fired by a Panther.

Thirty-one of the ninety shots entered the bedroom where Hampton slept. He had been shot four times — on an arm and a shoulder, and twice in the head. Three other people had lain on the same bed during the nine minute hail of bullets, yet none of them had been hurt. Deborah Johnson, then eight months pregnant with Fred Hampton's child, has said that minutes after the firing stopped and after she had had been taken from the bedroom into the kitchen, she heard two single shots and then a policeman say, "Now he's good and dead."<sup>5</sup> An independent commission headed by Roy Wilkins and Ramsey Clark concluded that "The probability is that Hampton was alone in the bed when shot."<sup>6</sup>

In violation of the law, the bodies were dragged from the scene. The survivors were taken into police head-



quarters and booked on attempted murder. Fred Hampton's body was identified and sent to the morgue. By dawn only the blood and bullets remained and the cover-up had begun.

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"If they can do this to the Black Panthers today, who will they do it to tomorrow?"

—Ralph Abernathy's eulogy to Hampton

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By mid-morning, the apartment was filled with people from the recesses of Cabrini Towers and from the rotting brownstones of Chicago's West Side, people who loved and respected Fred Hampton, people who felt a personal loss. And there were many who had not lived like Fred but who now, looking at the pocked walls, the bloodstained mattress, and the spent shells, began to question for the first time.

Somewhere something just didn't jibe, not while the wet blood soaked the floor and while Hanrahan's voice over the radio said that the police had "exercised good judgment, considerable restraint, and professional discipline. The immediate violent reaction of the occupants in shooting at announced police officers emphasizes the extreme viciousness of the BPP." And Groth likewise intoned that, "Our men had no choice but to return their fire."

The first part of the cover up is the same package every time — the shoot out . . . the heroic work by the officers . . . the dangerous Black Panthers . . .

But this time it didn't hold up for long. The black community, white liberals, people from all different sectors immediately began to question the raid.

- Why was the raid conducted at 4:45 AM? If the purpose was to confiscate weapons, why was it not carried out earlier in the evening when both the FBI and the Chicago police knew that the occupants would be out of the apartment at a political education class? Wasn't the police claim that they were trying to avoid violence simply ludicrous?
- If the purpose of the raid was to serve a search warrant, why was it not done by the proper authorities, duly announced? The Panthers had, after all, surrendered peacefully in a raid on their office in June of the same year.
- Why was the raid carried out without the use of tear gas, flood lights, or sound equipment — which could have prevented violence?
- Why were heavy arms the only equipment used?
- Why was a special force of men recruited?
- Why were 90 rounds fired, when that fire was not being returned by the people in the apartment?

- Why did Hampton sleep through it? Did someone drug him?

- Why did the police violate their standard procedures, and fail to seal off the area, photograph the bodies, and make ballistics tests? Why were there errors in the first autopsy?

Over five thousand people attended Fred Hampton's funeral. They overflowed into the streets of Chicago, and then New York, San Francisco and across the country.

Yet as thousands demonstrated, as the newspaper headlines still carried the story of the raid, and as Hanrahan and others who participated in the raid attempted to justify themselves, a flurry of activity was going on in the Chicago FBI office. Immediately following the raid a series of URGENT teletypes were sent from Chicago to Washington DC which gave details of the events of December 4th. The first of these teletypes was quick to inform HQ that the police had "positively identified Hampton as being killed." What followed were a series of almost hourly bulletins reporting that the area was calm.

Obviously pleased with the results, Marlin Johnson sent the following memo to FBI Headquarters asking that William O'Neil receive a special bonus:

"A detailed inventory of the weapons and also a detailed floor plan of the apartment were furnished to local authorities. In addition, the identities of BPP members utilizing the apartment at the above address were furnished. This information was not available from any other source and subsequently proved to be of tremendous value in that it subsequently saved injury and possible death to officers participating in a raid at the address on the morning of 12/4/69. *The raid was based on the information furnished by informant.* . . . During the resistance by the BPP members at the time of the raid . . . Fred Hampton was killed. . . . It is felt that this information is of considerable value in consideration of a special payment for informant requested in re Chicago letter."

On December 11, 1969 the Chicago office received the following Airtel "Authority is granted to make captioned informant a special payment of \$300 over and above presently authorized levels of payment for uniquely valuable services which he rendered over the past several months." The FBI thought that the case was closed.

## Official Investigation/Official Cover-up

Outside the recesses of FBI offices around the country and various other departments of the Justice Department

and other federal agencies, another very different operation was taking place. The original story set out by Hanrahan and the Chicago Police did not hold water for long. A few days after Hampton's death the Chicago Afro-American Patrolmen's League issued a statement saying that it was "an obvious political assassination" and a "deliberate police set-up".

Facts were already beginning to emerge and, from the start, they showed extremely questionable activity on the part of the police and State Attorney's office. The cover-up of the FBI's role in the operation, however, held together until this year.

Almost immediately it became clear that no more than one shot, if that, had been fired by the Panthers. In addition it came out that some rather peculiar police procedure had followed the raid: no fingerprints were taken, evidence taken from the apartment was not correctly labeled or classified, weapons were not submitted to examination, the bodies in the apartment were moved during the raid and immediately removed from the scene before either pictures could be taken or the coroner's office called, and finally, the scene of the raid was not sealed off.

With the list of "irregularities" added to the public outcry, an official investigation was demanded. There were three such investigations, but all of them functioned as official cover-ups rather than as official inquiries. And none of them revealed the critical role that the FBI and its COINTELPRO operations had played.

The State Attorney's office, those same people who had carried out the raid, were charged with investigating the raid. Hanrahan offered an indignant reply when questioned about this clear conflict of interest, saying, "Our officers wouldn't lie about the act."

As this investigation was going on, another investigation was carried out by the Internal Inspection Division of the Chicago Police Dept. Their findings were also predictable — the police were innocent of any wrongdoing and had acted in a justifiable manner.

On January 30, 1970 a Cook County Grand Jury called to investigate the case handed down indictments. They found the seven survivors in the apartment guilty of a series of charges ranging from attempted murder to illegal possession of firearms.

For all appearances at the time, the federal government first entered the case on December 19, 1969 when then-Attorney General John Mitchell appointed Jerris Leonard to head a federal grand jury sitting on the case. Leonard was known to have stated several months before that the Panthers were a bunch of "hoodlums" and "we have to get them."

The federal grand jury sat for several months and took pages and pages of what is still secret testimony. Its report

deals exclusively with the role of the State Attorney's office, the Chicago Police, and the BPP. It was not told of the FBI role and ended up thanking the FBI for conducting its investigation.

Writing before the role of the FBI was revealed, the *Special Commission of Inquiry* headed by Roy Wilkins and Ramsey Clark said of the grand jury report:

"The job of the grand jury was to determine whether violations of law had occurred and to vote indictments if it found sufficient cause. Its Report, critical of everybody but most particularly the Panthers, has had the effect — very possibly a politically intended effect — of leaving the impression that the only crimes committed were by the Panthers, and that, even if the police were overzealous, the Panthers deserved it. It is appalling enough that although people had been killed — or perhaps more accurately murdered — the grand jury was merely investigating denials of civil rights. For that grand jury then to conclude in effect that the victims deserved their fate, and not to indict any of the perpetrators, does little except to give credit to the Panthers foresight in being unwilling to participate in the grand jury's investigation."

The grand jury noted that the police involved in the raid had presented a misleading description of what had occurred. In particular, the police had asserted that the residents of the apartment had fired many shots, but the grand jury found that only one shot had been fired by the Panthers. The grand jury offered no explanation for this discrepancy, nor any explanation for why the police continued firing for nine minutes. Yet, the grand jury indicted no one, either for Hampton's murder or for the cover-up. Even with the recent release of FBI documents this has remained unexplained.

On May 8, 1970, one week before the federal grand jury's report was released, all of the State charges against the survivors were dropped. It was six years before the sequence of events behind this became clear. In the Hampton lawsuit, an FBI document dated 4/8/70 stated, "Assistant Attorney General Jerris Leonard, Civil Rights Division, Dept. of Justice at Chicago, advised SAC Marlin Johnson in strictest confidence that no indictments of police officers are planned in captioned matter . . . The above is based upon an agreement whereby Hanrahan will dismiss the local indictment against Black Panther Party members."

Why was the Justice Dept. making a deal with Hanrahan? With what we know now, the answer is apparent: because only the State Attorney's office in Chicago and the GID division of the Chicago Police knew about the real role which the FBI had played in the raid. If no one got indicted, no one would talk, and the FBI cover-up would continue intact.

## Answered and Unanswered Questions

Seven years later, the trial drags on. Up on the 25th floor of the Federal Building in the center of Chicago's Loop area, sit the defendants. At another table sit the families of Mark Clark and Fred Hampton. And last but not least, sits Judge Perry, now 79 years old. He is a small man, ensconced behind a large wood panel frame, and thrust against a huge black chair. The room is cold, modern, without personality, and the latest in government austere.

To enter one has to walk through an electronic device; there are security guards everywhere. Other than the trial there seems to be very little movement on the 25th floor — it is a world of its own.

The plaintiffs had claimed from the beginning that there had been a conspiracy; when the existence of COINTELPRO was revealed (when the Media, Pennsylvania FBI files were stolen), they claimed that the program against the Panthers must have been a part of that operation. But the judge denied motion after motion for enforcing the suit's discovery proceedings, and the FBI brought in a few scraps paper here and there.

It was only in March of 1976 that Roy Mitchell slipped while testifying and mentioned a document which had not come up before. He was ordered to bring in the document; when it was produced, it became clear that the memorandum had been covered by the judge's previous order to disclose relevant material. The judge ordered that the FBI go back and search its files again.

The government then produced many new documents, and it was apparent that it had withheld fully nine-tenths of the documents which the court had previously ordered it to disclose. The new files told the story described above.

But the major point is not that they covered up their tracks; anyone familiar with the workings of the Bureau knows well the meaning of the phrase "Don't embarrass the Bureau," *i.e.*, don't get caught. The real point is to find out and understand what they were really doing.

In the case of Fred Hampton, it seems all too clear — when the FBI could not initiate a war in which Hampton

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**"Prevent the coalition of militant black nationalist groups. In unity, there is strength, a truism that is no less valid for all its triteness. An effective coalition of black nationalist groups might be the first step toward a real 'MAU MAU' in America, the beginning of a true black revolution." — FBI Memo, 3/4/68.**

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was killed by the Blackstone Rangers, they were forced to look for another way — the police and then the State Attorney's office. Through the documents and the survivors,

we have some knowledge of what happened in those 9 minutes of hell, and what led up to them.

But there are larger and more troubling questions. Can it be sheer chance that Malcolm X died with a police agent next to him, that Martin Luther King was shot down during the most important phase of his career, that 28 Panthers died within one and a half years, that the entire leadership of the Panthers is either in jail, dead, or in exile?

There is no reason to chalk it up to chance — it is the legacy of centuries of special controls over black people, of two standards of justice, of two separate sets of rules when playing the politics of "counterintelligence."

We have not seen the files our officials kept on their dealings with the black movement. What would we find if we did? Would we find the Pentagon Papers of a domestic war? Would we find ourselves referring to the assassination plots of FBI within this country as easily as we speak of CIA plots abroad? Who was closer to home and more threatening, Fidel Castro or Fred Hampton? Salvadore Allende or George Jackson? And when will such a war end?

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**"They'll never count me among the broken men, but I can't say that I am normal either. I've been hungry too long. I've gotten angry too often. I've been lied to and insulted too many times. They've pushed me over the line from which there can be no retreat. I know that they will not be satisfied until they've pushed me out of this existence altogether." — George Jackson, *Soledad Brother*, August 1971 (shortly before being shot while "trying to escape").**

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## FOOTNOTES

1. No reasonably complete and impartial official investigation has yet been conducted of the Hampton assassination. It was only at the very end of the Senate Intelligence Committee's investigation of the FBI operations against the Panthers that it gained access to some, but not all, of the documents cited in this article; the Committee did not have time to pursue their implications. The Federal Grand Jury which conducted an investigation in 1970 was not informed about the FBI COINTELPRO against the Panthers and relied entirely on the Bureau for its investigation.

2. FBI memo dated 11/21/69.

3. See generally the Senate Intelligence Committee report on the FBI COINTELPRO against the Black Panthers. S. Rep. No. 94-755, Volume III, pp. 185-225.

4. *Chicago Daily News*, June 12-13, 1976, p. 3.

5. *Search and Destroy*, Roy Wilkins and Ramsey Clark (Metropolitan Applied Research Center: New York, 1973) p. 141.

6. *Ibid.*, p. 157.

## In The News

October 4, 1976 In a letter from U.S. Attorney Robert B. Fiske, Jr., to the counsel of the Socialist Workers Party, the Justice Department made clear that the provisions of Attorney General Levi's termination of the 38-year investigation of the SWP as an organization does not include ending or prohibiting the investigation of individual SWP members. Furthermore, the FBI is not withdrawing its informers from the SWP, only directing them "to discontinue active information gathering on behalf of the FBI."

October 6, 1976 Former Acting Director of the FBI L. Patrick Gray, III, appeared before a federal grand jury investigating FBI burglaries; Gray has publicly denied charges by other officials that he had approved such break-ins. The Justice Department investigation is apparently now directed toward determining the complicity of FBI officials in Washington. (*Washington Post*, 10/7/76, p. A1)

October 6, 1976 The House Ethics Committee made public its final report on the unauthorized disclosure of the Pike Committee Report on intelligence activities. The Ethics Committee report, which brought strong dissents from some committee members, recommended that a professional security officer be given control of the flow of classified documents. (*New York Times*, 10/7/76).

October 15, 1976 Apparently as a result of an order from Attorney General Levi, FBI Director Clarence Kelley revised an inflammatory speech scheduled to be given to the New Mexico Press Association. The speech originally stated that, "If a journalist continually displays an obsession to support his own hostile notions about our agency, then he cannot expect to continue to enjoy any sort of a productive relationship with us." (*New York Times*, 10/16/76, p. C6 and 10/17/76, p. 32)

October 20, 1976 In spite of a 1966 Hoover memorandum prohibiting black bag jobs, FBI agents of the Weather Unit of the New York City office continued through at least 1972 to carry out such operations against the relatives and friends of members of the Weather Underground. According to FBI sources, neither the burglaries nor the planted bugs turned up evidence of the fugitives' whereabouts. (*New York Times*, October 21, 1976, p. C15)

October 22, 1976 In an interview, the Shah of Iran admitted that SAVAK (Iranian secret police) agents are operating in the United States for the purpose of "checking up on anybody who becomes affiliated with circles, organizations hostile to my country, which is the role of any intelligence organization." The Shah also said that SAVAK is in the U.S. with the knowledge and consent of the U.S. government. (*New York Times*, 10/22/76, p. A27)

October 23, 1976 A report from Caracas, Venezuela stated that two of the four people arrested in the bombing on Oct. 6 of a Cuban airliner with 73 people aboard were anti-Castro Cuban exiles. One, Orlando Bosch, was convicted of terrorist activities in the United States and is wanted for questioning in the bomb-slaying of Orlando Letelier and Ronni Karpen Moffitt. (*New York Times*, 10/26/76, p. C4)

October 24, 1976 Reports from Venezuela indicate that Joe Leo, an FBI agent at the embassy there, was in contact with and obtained official favors for at least two of the four suspects being held for the Cuban airliner bombing. This fact raises doubts about Secretary of State Kissinger's statement that "no one in contact with the American government has had anything to do" with the sabotage of the plane. (*Washington Post*, 10/25/76, p. A26)

October 24, 1976 According to sources close to the federal investigation of South Korean activities in the United States, during the 1970s the Park Chung Hee government has given between \$500,000 and \$1 million per year in gifts, cash and contributions to members of Congress and other officials. The KCIA's primary agent is apparently a Korean businessman named Tongsun Park, who financed his operations at least in part from import/export rice deals. (*Washington Post*, 10/24/76, p. 1) (See "Point of View," p. 16)

## In The Courts

June 10, 1976 *U.S. v. Ramsey*, 538 F.2d 415 (D.C. Cir.) 76-167 cert. granted, 45 U.S.L.W. 3222 (October 4, 1976). "The values protected by the First and Fourth Amendment demand that, before international mail is opened, a showing of probable cause be made and a warrant secured from a neutral magistrate." Recent disclosures of "widespread illegal searches of mail by United States intelligence agencies" highlights need for courts to protect those viewed with suspicion by the government. "To advert again to the documented abuses by Ameri-

can intelligence agencies in conducting mail searches does not reflect an obsession with current headlines, but rather highlights the importance of our duty to enforce the Fourth Amendment's protection of individual privacy and security."

October 1, 1976 *Weatherford and Strom v. Bursey*, #75-1510. In a friend-of-the-court brief asking the Supreme Court to reverse a 1975 Fourth Circuit decision, Solicitor General Robert H. Bork argued that, in order to maintain cover, a police informant should be allowed to join

the discussions of a criminal defendant and his attorney, and that agents and informers should not be liable for damages if they become involved in such "passive intrusions" into attorney-client conferences. The case deals with Bursey's conviction for the vandalizing of a draft board office where the conviction was obtained after the informer's surprise testimony for the prosecution.

October 4, 1976 *Military Audit Project v. Bush*, Civil Action No. 75-2103 (D.D.C.). Implementing a Court of Appeals order of October 1st, District Court Judge Gerhard A.

Gesell ordered the CIA and the Department of Defense to produce, as previously ordered, affidavits and documents in the Freedom of Information Act suit for material relating to the Glomar Explorer. After examining the documents *in camera*, Judge Gesell issued on October 20, 1976 a one sentence order: "The complaint is dismissed for reasons stated *in camera*."

October 8, 1976 *Emery v. Laise*, Civil Action No. 75-381 (D.D.C.). Holding that the Freedom of Information Act allows a court to order a Civil Service Investigation of arbitrary and capricious withholding of documents only where the court has actually ordered the release of documents, Judge Thomas A. Flannery ruled that the sanctions provisions of the FOIA do not apply where the government on its own initiative released documents after a lawsuit is filed.

October 8, 1976 *U.S. v. Roberts*, 30816 (USCMA). In a decision in conflict with a 1975 decision by the Fourth Circuit Court of Appeals which allowed warrantless searches as part of a military drug control program, the U.S. Court of Military Appeals ruled such "shakedown inspections" illegal. Writing for the court majority, Judge Matthew J.

Perry, Jr. held such searches are not "a permissible intrusion into a person's reasonable expectation of privacy, even in the military setting. . . . We do not believe that the young American citizen who enters the nation's armed forces . . . can truly be said to have 'impliedly consented' to a search of his or her personal living quarters. . . ."

October 8, 1976 *Socialist Workers Party v. Attorney General*, 73 Civ. 3160 (S.D.N.Y.). Transcribed conference denying a motion to prevent taking the deposition of FBI Director Clarence Kelley, Judge Thomas P. Griesa ruled that SWP attorneys may question the Bureau chief about the use of informers, burglaries and other disruptive tactics against the SWP in their 38 year surveillance of the non-violent political organization.

October 12, 1976 *Nunez v. Fairfax City et. al.* Civ. Action #76-133A (N.D. Va.) U.S. District Court Judge D. Dortch Warriner dismissed a suit for damages against the CIA and the Fairfax City police for an illegal burglary cited by the Rockefeller Commission, because the plaintiffs had made an agreement with one policeman that in exchange for testimony he would be partially released from paying damages. The case will be appealed; meanwhile a

separate action against the CIA is pending before the D.C. federal court.

October 14, 1976 *Alliance to End Repression v. Rochford*, No. 74 C 3268, and *ACLU v. City of Chicago*, No. 75 C 3295 (N.D. Ill.) Memo, opinion, and order authorizing counsel in class action "red squad" suit to disclose to individuals and organizations files relating to them and permitting them to make information about themselves (but not about the intelligence gathering system) public.

October 22, 1976 *Klaus v. NSC*, Civil Action No. 75-1093 (D.D.C.) Memorandum and Order. In a Freedom of Information Act lawsuit seeking the release of National Security Council Intelligence Directives (NSCIDs) concerning official functions of the CIA and NSA, Judge Thomas A. Flannery held that, following *in camera* review of the documents that they had been properly withheld.

#### Case Reported

*Richardson v. Spahr*, Civil Action No. 75-297, 75-298, 75-712 (W.D. Pa., Jan. 30, 1976), noted in the April 1976 issue of *First Principles*, has now been reported at 416 F. Supp. 752.

#### FOIA Publications

*Litigation Under the Amended Federal Freedom of Information Act*, ed. by Christine M. Marwick, Second Edition. Available from the Project on NS&CL (see order blank on page 15). A major revision bringing the material up to date as of October 15, 1976. Includes both new case law and the new amendments to the (b)(3) exemption of the FOIA which Congress passed during the summer.

"A Summary of Freedom of Information and Privacy Laws of the 50 States," published by Access Reports, 2626 Pennsylvania Ave., N.W., Washington, D.C. 20037.

"How to Use the Freedom of Information Act," by the Council of Scientology Ministers, October 26, 1976. A pamphlet on the basics of how to use the FOIA, compiled on the basis of its own extensive experience in using the Act. Available from Church of Scientology Information Service, 5930 Franklin Avenue, Hollywood, CA 90028.

#### Law Review Articles

NOTE: "Central Intelligence Agency: Present Authority and Proposed Legislative Change," 62 Va. L. Rev. 332 (March 1976).

NOTE: "National Security and Freedom of the Press: The Constitutionality of S.I.'s National De-

fense Information Provisions," 9 Loyola of Los Angeles L. Rev. 323 (March 1976).

#### Articles

"Endnote: From the Files of the CIA," by John Marks and Name Withheld, *Bookletter*, September 27, 1976, p. 16. With a brief introduction, Marks reprints an internal CIA book review of former agent Philip Agee's book, *Inside the Company: CIA Diary*. Originally classified and released by the Freedom of Information Act, the CIA book review provides "confirmation of the accuracy of what Agee has written."

"The CIA's 'Loaded Gun,'" by

## In The Courts (continued)

## In The Literature

## In The Literature

(continued)

David C. Martin, *Washington Post*, October 10, 1976, p. C1. An account of CIA covert operative William King Harvey; the American 007 was a hard-drinking, gun toting type who was ultimately relieved from a high ranking position because he had become "a burnt-out case."

"The FBI Has Its Own Underground — Of Informers," by John M. Crewdson, *New York Times*, October 17, 1976, p. E4. Following the Denver grand jury indictment of a \$400/month FBI informer Timothy Redfearn, Crewdson offers a brief account of the improprieties in the FBI's informer programs and the Bureau's implicit involvement in illegal activities such as burglaries carried out by paid informers.

"Terror in Iran," by Reza Baraheni, *New York Review of Books*, October 28, 1976, p. 21. A well-known writer describes SAVAK's (the Shah of Iran's global political police) terror and torture tactics used against himself and an estimated 25,000 to 100,000 other political prisoners per year.

"How Kissinger Bugged His Friends," by David Wise, *New Times*, Oct. 29, 1976 (excerpted from *The American Police State*). On the basis of "discrepancies" between the testimony of Kissinger and that of "every other principal" in the wiretap lawsuit, Wise argues Kissinger deliberately misled and deceived the press, the public, and the Congress.

"The Campaign to Destroy Martin Luther King," by David Wise, *New York Review of Books*, November 11, 1976, p. 38. From the forthcoming book, *The American Police State*. An account of J. Edgar Hoover's personal vendetta against Martin Luther King and its anti-communist rationale.

### Books

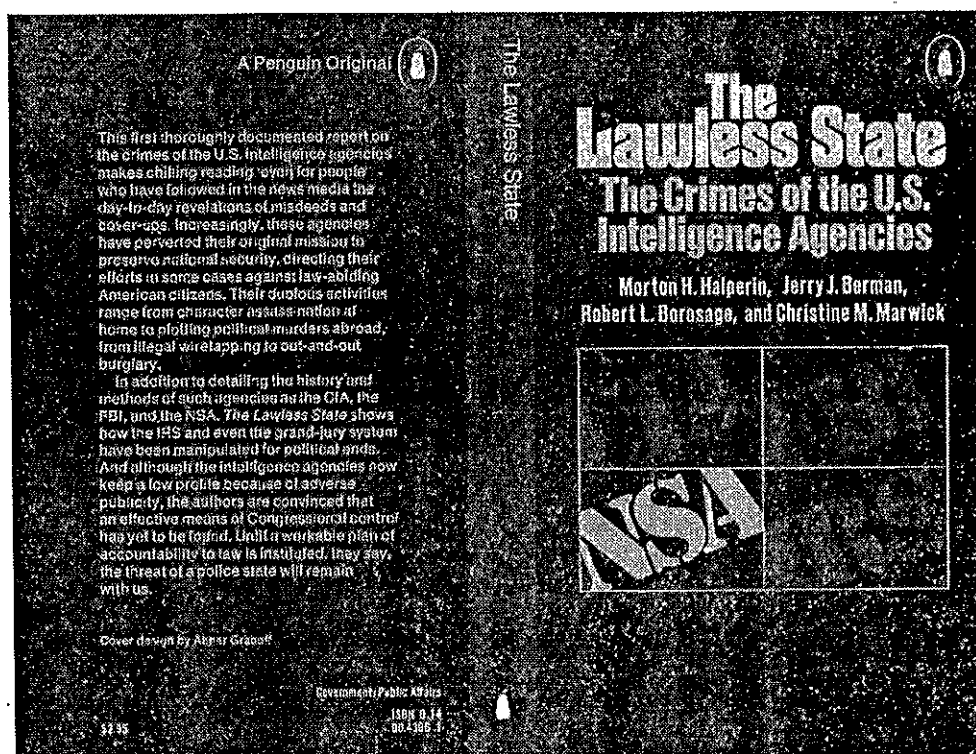
*Chief Counsel: Inside the Ervin Committee—The Untold Story of Watergate*, by Samuel Dash (Random House: New York, 1976). An account of the politics within the Ervin Committee. Dash states that Sen. Baker's faction asked the White House for advice on how to best

serve Nixon during the hearings, and tried to stop the investigations that might implicate others in the White House beyond John Dean.

*Portrait of a Cold Warrior*, by Joseph Burkholder Smith (Putnam: New York, 1976). Smith analyzes the faults of the CIA as production of warped intelligence, manipulation of embassies, institutionalized arrogance, and poor cover. His criticisms support the CIA stereotypes — adventurers, careerists, and right-of-Chengis Khan reactionaries.

## New Book Available From Project on NS & CL

This month, Penguin Books has published *The Lawless State*, written by the Center for National Security Studies, of which the Project on National Security and Civil Liberties is a part. *The Lawless State* is available from the Project — use the order blank on page 15.



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branch it is a commonly heard phrase that something is "only Top Secret." One does not apply for such clearances; they are bestowed by the agency running the program which controls the clearances for its own operations. Access lists relating to specific programs are even more tightly controlled. Thus, there would be a clearance for interception of messages by NSA and a special access list for the Blue House bugging operation. Only those on the list would be given access to information derived from the operation in its pure form. Others might be given reports in which information obtained from the bug was disguised and comingled with other information so as to disguise the source. An official who asked where the information had come from would not be told the truth unless one had the special clearance and was on the access list.

Information derived from the bugging of Korean leaders could thus be kept from people in the Justice Department or in the Congress who might have acted on it. In any case, intelligence officials saw little point in telling their Justice Department colleagues since they could not be permitted to act in ways that might blow the source. We should recall that when Richard Nixon tried to use the CIA to stop the FBI investigation of CREEP checks laundered in Mexico, no one at that time considered it illegitimate to curtail the Watergate investigation if it would really have jeopardized CIA operations. Nixon's downfall came not from claiming, in effect, that protecting intelligence sources and methods was a more important national security interest than determining whether the White House was trying to rig the presidential election; rather, his downfall came from the fact that his claims of protecting CIA operations had been created out of whole cloth.

Only now are we beginning to appreciate the ramifications of that widely held attitude toward protecting intelligence operations over virtually everything else. We now find ourselves with not only the current Korean scandal and the murder of Letelier, but with widespread operations of a number of intelligence agencies in the United States, including Iran and Chile as well as Korea, which are aimed at intimidating their own nationals and influencing American policy. It is the same attitude which produced the CIA-Justice Department agreement that allowed the CIA for twenty years to select for itself what criminal activity they would choose to report.

The failure of the CIA and NSA to report the Blue House conversations is a specific violation of the statute that requires all federal officials to report evidence of wrong-doing to the Attorney General. It no longer surprises us that the intelligence agencies considered themselves above the law; but the fact that they remain above it to this day is cause for growing concern.

We can no longer afford to assume that claims of protecting foreign intelligence sources and methods must have the highest priority; there are also countervailing values of greater importance to our society — including the enforcing of criminal laws and the protecting of our democratic institutions from corruption. The control of intelligence information as it affects our other governmental institutions must be taken away from the intelligence agencies. There must be new legislation to ensure that officials who are responsible for protecting public integrity and enforcing the criminal laws have both access to all relevant information and the right to act on or to make it public when necessary.

## Point Of View

(continued from page 16)

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*Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad.*

JAMES MADISON TO THOMAS JEFFERSON, MAY 13, 1798

## Foreign Spies and Crime

MORTON H. HALPERIN

### Point Of View

Some six years ago, agents of American intelligence apparently overheard a remarkable conversation in the Blue House, the residence of the President of South Korea. President Park Chung Hee was plotting with others, including the now notorious Washington businessman, Tongsun Park, to bribe members of the Congress of the United States. In the same or another conversation, plans were made to use Reverend Sun Myung Moon to influence American politics.

For the agents of the National Security Agency and the CIA — who must have been the ones to intercept these conversations — it was all in a day's work. Allied governments were and are fair game for interception and spying. Their reliance on American-supplied technology, their greater openness, and their many contacts with American agents make them easier to penetrate. The information is sometimes of substantial value to American officials who conduct frequent negotiations with allied governments and benefit from knowing their real aims and fall-back positions.

However, the information acquired in 1970 could not have pleased the intelligence services. Indeed, it was a hot potato. If informed of these plots, responsible officials in the United States would have wanted to take steps to head them off, perhaps simply by expelling Park and Moon. But therein lay the danger — any action taken on the basis of this information risked jeopardizing the source. If President Park's advisers suspected that his meeting rooms were bugged, they could have taken steps to prevent future interceptions, and valuable intelligence might have

been lost.

And so the incredible decision was apparently made — the intelligence agencies would not pass on the information to those responsible for preventing criminal activity in the United States. Park, Moon, and others were permitted to operate for six years — bribing members of Congress, using foreign funds to organize rallies for Richard Nixon, and corrupting the American political process in other ways. Only when the story began to leak from other sources did the intelligence agencies reluctantly provide the information they had long kept secret.

To understand how NSA and CIA were able to keep this information from those who should have had it, one must understand the arcane world of intelligence clearances and access lists. The official position of the executive branch is that there is only one set of clearances: Confidential-Secret-Top Secret. Beyond that, access is limited by the "need-to-know" principle, *i.e.*, one must have official duties which justify access to the information. This means that a Justice Department official with a Top Secret clearance and official duties related to government corruption should have access to all information in the United States government which touches on that subject. But the reality is quite different.

There are, in fact, a bewildering variety of additional and higher clearances. The main difference between these additional clearances and "Top Secret" is that even their very existence is a secret; in informal, high-level conversations in the executive

*(continued on page 15)*

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